

**MCNAIR & SANFORD, P.A.**

ATTORNEYS AND COUNSELORS AT LAW

MADISON OFFICE BUILDING/SUITE 400  
1155 FIFTEENTH STREET, NORTHWEST  
WASHINGTON, DC 20005

TELEPHONE 202/659-3900  
FACSIMILE 202/659-5763

CHARLESTON OFFICE  
140 EAST BAY STREET  
POST OFFICE BOX 1431  
CHARLESTON, SC 29402  
TELEPHONE 803/723-7831  
FACSIMILE 803/722-3227

COLUMBIA OFFICE  
NATIONSBANK TOWER  
1301 GERMAIS STREET  
POST OFFICE BOX 11390  
COLUMBIA, SC 29211  
TELEPHONE 803/799-9800  
FACSIMILE 803/799-9804

GEORGETOWN OFFICE  
121 SCREVEN STREET  
POST OFFICE DRAWER 418  
GEORGETOWN, SC 29442  
TELEPHONE 803/546-8102  
FACSIMILE 803/546-0096

GREENVILLE OFFICE  
NATIONSBANK PLAZA  
SUITE 601  
7 NORTH LAURENS STREET  
GREENVILLE, SC 29601  
TELEPHONE 803/271-4940  
FACSIMILE 803/271-4015

RALEIGH OFFICE  
RALEIGH FEDERAL BUILDING  
ONE EXCHANGE PLAZA  
SUITE 810  
POST OFFICE BOX 2447  
RALEIGH, NC 27602  
TELEPHONE 919/890-4190  
FACSIMILE 919/890-4180

SPARTANBURG OFFICE  
SPARTAN CENTRE/SUITE 306  
101 WEST ST. JOHN STREET  
POST OFFICE BOX 5137  
SPARTANBURG, SC 29304  
TELEPHONE 803/542-1300  
FACSIMILE 803/542-0705

August 2, 1994

RECEIVED

AUG 2 1994

Mr. William F. Caton  
Secretary  
Federal Communications Commission  
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: MM Docket No. 93-107  
Channel 280A  
Westerville, Ohio

Dear Mr. Caton:

Enclosed for filing on behalf of Ohio Radio Associates, Inc. are an original and eleven (11) copies of its motion for leave to file supplement and its supplement to an opposition to a petition of David A. Ringer for leave to amend.

Please contact the undersigned in our Washington, D.C. office.

Respectfully submitted,

MCNAIR & SANFORD, P.A.

By:   
Stephen T. Yelverton

Enclosure

B:CATON.152

No. of Copies rec'd 0 + 11  
List A B C D E

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL  
RECEIVED

AUG 2 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In re Applications of:

DAVID A. RINGER

et al.

Applications for Construction  
Permit for a New FM Station,  
Channel 280A, Westerville,  
Ohio

)  
)  
) MM Docket No. 93-107  
)  
)  
)

File Nos. BPH-911230MA

)  
) through  
)  
)

) BPH-911231MB  
)

To: The Review Board

**MOTION FOR LEAVE TO FILE SUPPLEMENT**

Respectfully submitted,

MCNAIR & SANFORD, P.A.

By: \_\_\_\_\_

Stephen T. Yelverton  
Attorneys for Ohio Radio  
Associates, Inc.  
1155 15th Street, N.W.  
Suite 400  
Washington, D.C. 20005  
Telephone: (202) 659-3900

August 2, 1994

B:CATON.152

### MOTION FOR LEAVE TO FILE SUPPLEMENT

Ohio Radio Associates, Inc. ("ORA"), by its attorneys, pursuant to Section 1.294 (b) of the Commission's Rules, hereby submits this motion for leave to file supplement. ORA requests leave to supplement its May 18, 1994, opposition to a petition for leave to amend and amendment filed by Davis A. Ringer ("Ringer") on May 9, 1994. Leave to file the supplement is requested in order to inform the Review Board of newly discovered information which relates to acceptance of Ringer's May 9, 1994, amendment. In support of its motion for leave, ORA submits the following comments.

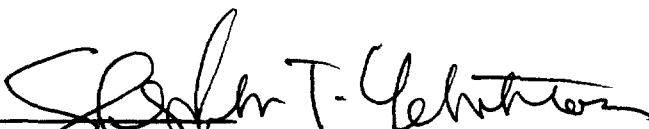
In his May 9, 1994, amendment, Ringer revised his cost estimates to reflect substantial additional costs resulting from his new tower site. However, as noted in ORA's May 18, 1994, opposition, Ringer failed to even attempt, as required by Commission policy, to demonstrate that he had sufficient funds to cover the increased cost estimates. Ringer also failed to disclose that he had committed to funding another FM broadcast application which was filed on April 11, 1994. As noted in the attached supplement, Ringer filed an application for a new FM station in Athens, Ohio. Therein, he committed \$352,520 of his own personal money to fund that application. Under established Commission policy, Ringer must demonstrate the availability of sufficient funds to cover both the Westerville and Athens applications. Thus, the revised cost estimates should have reflected this additional cost.

"Good cause" is demonstrated for acceptance of the attached supplement. See, Section 1.229 (c). It provides information which Ringer should have disclosed in his amendment and thus is a matter of probable decisional significance and of substantial public interest importance.

WHEREFORE, in view of the foregoing, ORA requests that the Review Board grant its motion for leave to file and to accept its supplement to the opposition to Ringer's petition for leave to amend and amendment.

Respectfully submitted,

McNAIR & SANFORD, P.A.

By: 

Stephen T. Yelverton  
1155 15th St., N.W., Suite 400  
Washington, D.C. 20005  
Tel. 202-659-3900

August 2, 1994

020979.0000  
ORA.801

**B:CATON.152**

**SUPPLEMENT TO OPPOSITION TO PETITION  
OF RINGER FOR LEAVE TO AMEND**

Ohio Radio Associates, Inc. ("ORA"), by its attorneys, pursuant to Section 1.294 (b) of the Commission's Rules, hereby submits this supplement to opposition to petition for leave to amend. ORA seeks to supplement an opposition, filed May 18, 1994, to a petition for leave to amend and amendment filed by Davis A. Ringer ("Ringer") on May 9, 1994. This supplement is submitted in order to inform the Review Board of newly discovered information which relates to acceptance of Ringer's May 9, 1994, amendment. In support of the supplement, ORA offers the following comments.

In his May 9, 1994, amendment, Ringer revised his cost estimates to reflect substantial additional costs resulting from his new tower site. However, as noted in ORA's May 18, 1994, opposition, Ringer failed to even attempt to demonstrate that he had sufficient funds to cover the increased cost estimates. Such a demonstration of the availability of the necessary additional funds is required under Commission policy in order for the amendment to be accepted. See, Radio Representatives, Inc., 6 FCC Rcd 6995 (1991).

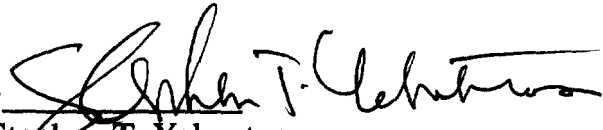
Ringer not only failed to demonstrate the availability of the necessary additional funds, but also failed to disclose that he had committed to funding another FM broadcast application which was filed on April 11, 1994. As noted in the attached exhibit, Ringer filed an application for a new FM station in Athens, Ohio. Therein, he committed \$352,520 of his own personal money to fund that application. Under established Commission policy, Ringer must demonstrate the availability of sufficient funds to cover both the Westerville and Athens applications. Breeze Broadcasting Co., Ltd., 8 FCC Rcd 1835, 1837, para. 12 (Rev. Bd. 1993). Thus, the revised cost estimates should have reflected this additional cost.

Ringer's May 9, 1994, amendment can not be accepted because it would require the specification of new issues and additional hearings. See, Section 73.3522(a); Erwin O'Connor Broadcasting Co., 22 FCC2d 142, 143 (Rev. Bd. 1979). A Section 1.65 failure to report and lack of candor issues would be required. A substantial and material question of fact is raised that Ringer failed to disclose in the May 9, 1994, amendment the filing of the Athens FM application in order to hide from the Commission and the other applicants his newly acquired \$352,520 financial commitment and liability. See, David Ortiz Radio Corp. v. FCC, 941 F.2d 1253, 1260 (D.C. Cir. 1991). Such a disclosure of an additional financial commitment and liability would have raised serious questions as to Ringer's financial ability to fund the increased costs of the Westerville application.

WHEREFORE, in view of the foregoing, ORA requests that the Review Board accept this supplement to its opposition to Ringer's petition for leave to amend and amendment.

Respectfully submitted,

McNAIR & SANFORD, P.A.

By:   
Stephen T. Yelverton  
1155 15th St., N.W., Suite 400  
Washington, D.C. 20005  
Tel. 202-659-3900

August 2, 1994

020979.0000  
ORA.802

Attachment

DUPLICATE 239

LAW OFFICES  
SMITHWICK & BELENDIUK, P. C.

1990 M STREET, N.W.

SUITE 510

WASHINGTON, D.C. 20036

TELECOPIER  
(202) 785-2804

TELEPHONE  
(202) 785-2800

ECC/MELLON APR 11 1994

April 11, 1994

Federal Communications Commission  
Mass Media Services  
P.O. Box 358195  
Pittsburgh, Pennsylvania 15251-5350

Attention: Lock Bock Supervisor

RE: Athens, Ohio  
David A. Ringer

Dear Sir or Madam:

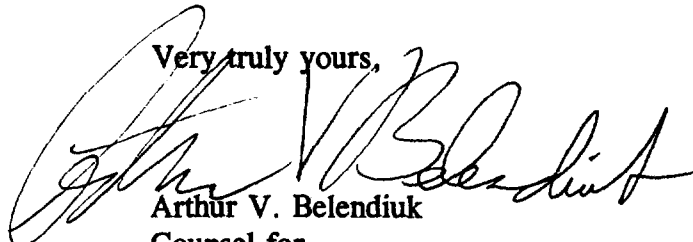
Transmitted herewith, on behalf of David Ringer are an original and two copies of an application for construction permit for a new FM station at Athens, Ohio.

Enclosed is a check in the amount of \$2,030.00 in payment of the filing fee (Fee Code: MTR).

Please stamp "received" the enclosed additional copy, and return it in the self-addressed envelope provided.

If there are any questions with respect to this matter, please communicate with the undersigned.

Very truly yours,



Arthur V. Belendiuk  
Counsel for  
DAVID RINGER

AVB/pn.A0411  
Enc.

cc: Athens Public File  
Mr. David Ringer



P. 2

Approved by OMB  
60-0027  
Expires 6/30/95

FCC 301

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20544

FOR  
FCC  
USE  
ONLY

APPLICATION FOR CONSTRUCTION PERMIT  
FOR COMMERCIAL BROADCAST STATION

FOR COMMISSION USE ONLY

FILE NO.

PPH-940411M2

Section I - GENERAL INFORMATION

1. APPLICANT NAME

David Ringer

MAILING ADDRESS (Line 1) (Maximum 85 characters)

417 West Sixth Avenue

MAILING ADDRESS (Line 2) (If required) (Maximum 85 characters)

CITY

Columbus

STATE OR COUNTRY (if foreign address)

OH

ZIP CODE

43201

TELEPHONE NUMBER (include area code)

(614) 297-1223

CALL LETTERS

OTHER FCC IDENTIFIER (IF APPLICABLE)

FOR MAILING THIS APPLICATION, SEE INSTRUCTIONS FOR SECTION 1 - GENERAL INFORMATION B.

2. A. Is a fee submitted with this application?

☒ Yes ☐ No

B. If No, indicate reason for fee exemption (see 47 C.F.R. Section 1.1112) and go to Question 6.

☐ Governmental Entity

☐ Noncommercial educational licensee

C. If Yes, provide the following information:

Enter in Column (A) the correct Fee Type Code for the service you are applying for. Fee Type Codes may be found in the "Mass Media Services Fee Filing Guide." Column (B) lists the Fee Multiple applicable for this application. Enter in Column (C) the result obtained from multiplying the value of the Fee Type Code in Column (A) by the number listed in Column (B).

(A)

FEE TYPE CODE

M

T

R

(B)

FEE MULTIPLE  
(if required)

0

0

0

1

(C)

FEE DUE FOR FEE TYPE  
CODE IN COLUMN (A)

\$ 2,030.00

FOR FCC USE ONLY

To be used only when you are requesting concurrent actions which result in a requirement to list more than one Fee Type Code.

(A)

(2)

(B)

0

0

0

1

(C)

\$

FOR FCC USE ONLY

ADD ALL AMOUNTS SHOWN IN COLUMN C, LINES (1) THROUGH (2), AND ENTER THE TOTAL HERE. THIS AMOUNT SHOULD EQUAL YOUR ENCLOSED REMITTANCE.

TOTAL AMOUNT REMITTED  
WITH THIS APPLICATION

\$ 2,030.00

FOR FCC USE ONLY

3. This application is for: (check one box)

☐ AM

☒ FM

☐ TV

(b) Channel No. or Frequency

240A (95.9 MHz)

(b) Principal  
Community

City

Athens,

State

OH

If this application is for a change in an operating facility do not fill out this section.

The applicant certifies that sufficient net liquid assets are on hand or that sufficient funds are available from committed sources to construct and operate the requested facilities for three months without revenue.

☒ Yes ☐ No

2. State the total funds you estimate are necessary to construct and operate the requested facility for three months without revenue.

• 352,520

**g. Identify each source of funds, including the name, address, and telephone number of the source (and a contact person if the source is an entity), the relationship (if any) of the source to the applicant, and the amount of funds to be supplied by each source.**

Source of Funds (Name and Address)	Telephone Number	Relationship	Amount
<p>Wid Ringer  417 West Sixth Avenue  Columbus, OH 43201</p>	(614) 297-1223	Applicant	360,000

VII - CERTIFICATION (Page 2)

P-4

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

I certify that the statements in this application are true and correct to the best of my knowledge and belief, and are made in good faith.

Name of Applicant David Ringer	Signature <i>David A. Ringer</i>
Date <i>April 6, 1994</i>	Title Individual

FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT  
AND THE PAPERWORK REDUCTION ACT

The solicitation of personal information requested in this application is authorized by the Communications Act of 1934, as amended. The Commission will use the information provided in this form to determine whether grant of the application is in the public interest. In reaching that determination, or for law enforcement purposes, it may become necessary to refer personal information contained in this form to another government agency. In addition, all information provided in this form will be available for public inspection. If information requested on the form is not provided, processing of the application may be delayed or the application may be returned without action pursuant to the Commission's rules. Your response is required to obtain the requested authority.

Public reporting burden for this collection of information is estimated to vary from 72 hours 40 minutes to 847 hours 25 minutes with an average of 218 hours 82 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, can be sent to the Federal Communications Commission, Information Resources Branch, Room 418, Paperwork Reduction Project, Washington, D.C. 20554, and to the Office of Management and Budget, Paperwork Reduction Project (9060-0027), Washington, D.C. 20503.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, P.L. 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3), AND THE PAPERWORK REDUCTION ACT OF 1980, P.L. 96-511, DECEMBER 11, 1980, 44 U.S.C. 3507.

### CERTIFICATE OF SERVICE

I, Stephen T. Yelverton, an attorney in the law firm of McNair & Sanford, P.A., do hereby certify that on this 2nd day of August, 1994, I have caused to be hand delivered or mailed, U.S. mail, postage prepaid, a copy of the foregoing "Motion for Leave to File Supplement" and "Supplement to Opposition to Petition of Ringer for Leave to Amend" to the following:

Joseph A. Marino, Chairman\*  
Review Board  
Federal Communications Commission  
Room 211  
2000 L Street, N.W.  
Washington, D.C. 20554

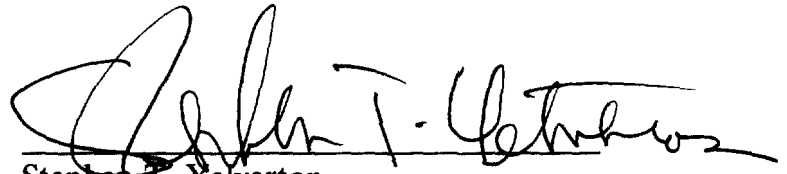
James Shook, Esquire  
Hearing Branch  
Federal Communications Commission  
Room 7212  
2025 M Street, N.W.  
Washington, D.C. 20554

Arthur V. Belenduik, Esquire  
Smithwick & Belenduik, P.C.  
1990 M Street, N.W.  
Suite 510  
Washington, D.C. 20036  
Counsel for David A. Ringer

James A. Koerner, Esquire  
Baraff, Koerner, Olender & Hochberg, P.C.  
5335 Wisconsin Avenue, N.W.  
Suite 300  
Washington, D.C. 20015-2003  
Counsel for ASF Broadcasting Corp.

Eric S. Kravetz, Esquire  
Brown, Finn & Nietert, Chartered  
1920 N Street, N.W.  
Suite 660  
Washington, D.C. 20036  
Counsel for Wilburn Industries, Inc.

Dan J. Alpert, Esquire  
Law Office of Dan J. Alpert  
1250 Connecticut Avenue, N.W.  
Washington, D.C. 20036  
Counsel for Shellee F. Davis



Stephen T. Yelverton

\*Hand Delivery